



**ORDER NUMBER  
F-21-24**

IN THE MATTER OF  
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and  
FortisBC Energy Inc.  
2024-2027 Demand Side Management Expenditures Plan  
Participant Cost Award Application

**BEFORE:**

E. B. Lockhart, Panel Chair  
C. M. Brewer, Commissioner  
B. A. Magnan, Commissioner

on April 11, 2024

**ORDER**

**WHEREAS:**

- A. On July 12, 2023, FEI filed its Application for 2024-2027 Demand Side Management Expenditures Plan (Application) with the BCUC, pursuant to section 44.2(1)(a) of the *Utilities Commission Act*, seeking acceptance of its proposed DSM expenditures of \$626.7 million for the period covering 2024 to 2027 (DSM Plan);
- B. By Order G-178-23A, dated July 7, 2023, and as amended by Order-251-23 dated September 21, 2023, the BCUC established a regulatory timetable providing for intervenor registration, one round of information requests, and final and reply submissions;
- C. The following interveners registered in the proceeding: British Columbia Old Age Pensioners' Organization et al. (BCOAPO); British Columbia Sustainable Energy Association (BCSEA); The Commercial Energy Consumers Association of BC (the CEC); Movement of United Professionals; and Residential Consumer Intervener Association (RCIA);
- D. On February 2, 2024, by Order G-31-24, the BCUC accepted the FEI DSM expenditure schedule for the period of 2024 to 2027 as outlined in the Application; and approved FEI's requested funding transfer, carry-over, and variance allowance rules;
- E. The following interveners filed Participant Cost Award (PCA) applications with the BCUC with respect to their participation in the proceeding:

Filing Date	Participant	Application
November 23, 2023	The Commercial Energy Consumers Association of BC (the CEC)	\$12,688.59
February 2, 2024	BC Sustainable Energy Association (BCSEA)	\$23,235.45
February 8, 2024	Residential Consumer Intervener Association (RCIA)	\$26,688.11
February 9, 2024	British Columbia Old Age Pensioners' Organization et al. (BCOAPO)	\$36,309.63

- F. By letter dated March 27, 2024, FEI provided its comments on the PCA applications, stating: “In accordance with Part VI, Section 35.03(b) of the PCA Rules, FEI notes the discrepancy between the PCA applications in terms of hours claimed for both legal and consultant services and the resulting amount applied for. In consideration of the comment above, FEI has reviewed the PCA applications and if the BCUC is satisfied that the participants have met the eligibility requirements, that the time and amounts claimed for participation is reasonable and appropriate in the circumstances of this proceeding, and that the level of participation has met with the BCUC’s criteria and requirements in accordance with the PCA Rules, then FEI has no further comment”; and
- G. The BCUC has reviewed the PCA applications in accordance with the criteria and rates set out in the Rules of Practice and Procedure for Participant Cost Awards, attached to BCUC Order G-72-23, and concludes that the cost awards should be approved in full for the CEC; BCSEA and RCIA; and that a partial cost award should be approved for BCOAPO.

**NOW THEREFORE** pursuant to section 118 of the *Utilities Commission Act*, and for the reasons outlined in the decision accompanying this order, the BCUC orders as follows:

1. Costs are awarded to the following interveners in the listed amounts, inclusive of applicable taxes, for their participation in the review of FEI’s 2024-2027 DSM Plan:

Participant	Award
The CEC	\$12,688.59
BCSEA	\$23,235.45
RCIA	\$26,688.11
BCOAPO	\$31,399.31

2. FEI is directed to reimburse the above-noted interveners for the awarded amount in a timely manner.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 11<sup>th</sup> day of April 2024.

BY ORDER

*Original signed by:*

E. B. Lockhart  
Commissioner

## DECISION

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### 1.0 Background

On July 12, 2023, FortisBC Energy Inc. (FEI) filed its Application for 2024-2027 Demand Side Management Expenditures Plan (Application) with the BCUC, pursuant to section 44.2(1)(a) of the *Utilities Commission Act*, seeking acceptance of its proposed DSM expenditures of \$626.7 million for the period covering 2024 to 2027 (DSM Plan).

The regulatory process for review of the DSM Plan comprised one round of information requests, and final and reply arguments. Five interveners registered in the proceeding: British Columbia Old Age Pensioners' Organization et al. (BCOAPO); British Columbia Sustainable Energy Association (BCSEA); The Commercial Energy Consumers Association of BC (the CEC); Movement of United Professionals; and Residential Consumer Intervener Association (RCIA).

On February 2, 2024, by Order G-31-24, the BCUC accepted the FEI DSM expenditure schedule for the period of 2024 to 2027 as outlined in the Application; and approved FEI's requested funding transfer, carry-over, and variance allowance rules.

### 2.0 Legislative Framework

Section 118 of the *Utilities Commission Act* (UCA) states that the BCUC may order a participant in a proceeding before the BCUC to pay all or part of the costs of another participant in the proceeding.

Order G-72-23, dated April 3, 2023, outlines the BCUC's PCA Rules (PCA Rules). Rule 33 of the PCA Rules relates to participant eligibility for a cost award and Rule 34 relates to costs that may be awarded. In accordance with Rule 36.01 of the PCA Rules, the BCUC will determine the amount of a cost award and will consider whether such costs are reasonable, were necessarily and properly incurred, and whether the participant has demonstrated through its participation that it has:

- i. Contributed to a better understanding by the BCUC of one or more of the issues in the proceeding;
- ii. Made reasonable efforts to combine or coordinate its participation with that of one or more participants with similar interests, in order to avoid duplication and reduce costs;
- iii. Engaged in conduct or activity that resulted in a more efficient and/or shorter proceeding;
- iv. Refrained from conduct or activity that unnecessarily lengthened the duration of the proceeding or resulted in unnecessary costs;
- v. Refrained from conduct or activities which the BCUC considers inappropriate or irresponsible;
- vi. Made reasonable efforts to ensure participation in the proceeding, including information requests, issues raised, evidence, cross-examination, and arguments, was within the scope of the proceeding or not unduly repetitive;
- vii. Engaged in conduct consistent with the participant's approved scope of participation in the proceeding;
- viii. Incurred time participating in the proceeding that was proportionate to the scope of the proceeding and/or the complexity or novelty of the proceeding;

- ix. Complied with the BCUC's orders, directions, and rules; and
- x. Any other matter the BCUC determines appropriate in the circumstances.

### 3.0 PCA Applications

The following participants filed PCA applications with the BCUC with respect to their participation in the proceeding:

Date	Participant	Application
November 23, 2023	The Commercial Energy Consumers Association of BC (the CEC)	\$12,688.59
February 2, 2024	BC Sustainable Energy Association (BCSEA)	\$23,235.45
February 8, 2024	Residential Consumer Intervener Association (RCIA)	\$26,688.11
February 9, 2024	British Columbia Old Age Pensioners' Organization et al. (BCOAPO)	\$36,309.63

The following table summarizes the hourly claims for each intervener, and the resulting amount applied for:

Intervener	Legal hours	Consultant hours	Total hours	Requested Amount Tax included
BCSEA	45.30	22.20	67.50	\$23,235.45
BCOAPO	32.10	99.50	131.60	\$36,309.63
The CEC	16.00	31.50	47.50	\$12,688.59
RCIA	15.90	84	99.90	\$26,688.11

Pursuant to Rule 35.03 (b) of the PCA Rules, on March 27, 2024, FEI provided its comments on the PCA applications, noting the discrepancy between the PCA applications in terms of hours claimed for both legal and consultant services and the resulting amount applied for. FEI stated that: "if the BCUC is satisfied that the participants have met the eligibility requirements, that the time and amounts claimed for participation is reasonable and appropriate in the circumstances of this proceeding, and that the level of participation has met with the BCUC's criteria and requirements in accordance with the PCA Rules, then FEI has no further comment."

#### *Panel determination*

The Panel has reviewed the PCA applications in accordance with the criteria and rates set out in the PCA Rules and finds that the cost awards sought by the CEC, BCSEA and RCIA should be approved in full.

The Panel finds that the cost award sought by BCOAPO should be approved in part for the reasons set out below.

#### 4.0 BCOAPO

BCOAPO seeks a cost award of \$36,309.63, inclusive of applicable taxes, including legal fees of \$11,753 for a senior and junior lawyer and \$24,552 in consultant fees, comprising:

- 20.7 hours for legal counsel, L. Worth;
- 11.4 hours for legal counsel, I. Mis; and
- 99.5 hours for a consultant, K. Derksen.

Name	Position & Experience	Rate	Hours	Total including applicable taxes
L. Worth	Legal Counsel 20+ years	\$350	20.7	\$8114.40
I. Mis	Legal Counsel 6 years	\$285	11.4	\$3,638.88
K. Derksen	Consultant 20+years	\$235	99.5	\$24,551.63
Disbursements				\$4.73
<b>TOTAL</b>				<b>\$36,309.63</b>

BCOAPO noted in the PCA application that they have attempted to remove, as much as possible, duplicative work as between legal counsel, meaning that the number of hours claimed for some lawyers is less than shown on their timesheets.

#### *Panel determination*

Having considered the PCA Rules, the Panel finds that BCOAPO is eligible for PCA funding and contributed to a better understanding of the issues in the proceeding. The Panel notes, however, that BCOAPO's requested PCA funding request is much greater than that requested by other interveners. As a point of comparison, BCOAPO's request is 36 percent higher than that of RCIA, which has the next largest claim. The Panel finds BCOAPO's PCA funding request is not reasonable, for the reasons set out below.

Specifically, it is not clear to the Panel that the time incurred by K. Derksen was proportionate to the scope of the proceeding and/or the complexity or novelty of the proceeding. The consultant hours claimed by BCOAPO is 18.5 percent more than the consultant hours claimed by RCIA (the next highest intervener claim by hours), while the total amount of hours claimed by BCOAPO is 31.7 percent higher than RCIA. In particular, based on the description of hourly costs the Panel notes that K. Derksen is claiming a total of 99.5 hours, 55.5 of which were allocated to Argument and Reply, which the Panel views as excessive.

The Panel is satisfied that I. Mis and L. Worth have adequately accounted for duplication in their time, and consider the claim for legal counsel to be reasonable.

While we acknowledge the importance of understanding the issues in the proceeding, and thus the necessity of reviewing the Application and contributing to the preparation of an intervener's submission and final arguments, we find that the amount claimed on behalf of K. Derksen is not reasonable. Accordingly, the Panel determines that reducing the amount of PCA funding sought by BCOAPO for K. Derksen's services amounting to \$24,551.63 by 20 percent (from 99.5 to 79.6 hours) is fair and reasonable. **The Panel therefore reduces the amount payable to K. Derksen to \$19,641.30, and awards BCOAPO \$31,399.31 in PCA funding, inclusive of disbursements and applicable taxes.**

**DATED** at the City of Vancouver, in the Province of British Columbia, this    11<sup>th</sup>    day of April 2024.

*Original signed by:*

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E. B. Lockhart  
Panel Chair/Commissioner

*Original signed by:*

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C. M. Brewer  
Commissioner

*Original signed by:*

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B. A. Magnan  
Commissioner